

Message Text

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ORIGIN AF-18

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DRAFTED BY AF/E:AMB. WILKOWSKI:BR

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FM SECSTATE WASHDC

TO AMEMBASSY LUSAKA

AMEMBASSY NAIROBI

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E.O. 11652: N/A

TAGS: EFIN, ZA

SUBJECT: TAW FILES ARBITRATION CLAIM

REF: LUSAKA 1780

NAIROBI FOR REDSO

1. TOM WOOD TOLD AMBASSADOR WILKOWSKI IN CONFIDENCE AND NOT RPT NOT FOR DISCUSSION YET ITH GRZ THAT TAW ON AUGUST 30 FILED ARBITRATION CLAIM AGAINST GOVERNMENT OF ZAMBIA WITH INTERNATIONAL CHAMBER OF COMMERCE. BRIEF FORWARDED TO ICC'S PARIS HEADQUARTERS FOR REFERRAL TO LONDON OFFICE WHERE ARBITRATION WILL TAKE PLACE. FORMER U.S. SUPREME COURT JUSTICE AND U.S. AMBASSADOR TO UN ARTHUR GOLDBERG HAS AGREED ACT AS AN ARBITRATOR IN CASE. (FYI,NORMALLY PARTIES AGREE TO 1 OR 3 ARBITRATORS).

2. WOOD ASSERTS GOLDBERG SAID HE WOULD NOT RPT NOT TAKE CASE UNLESS HE BELIEVED IN IT NOR IF HE FELT IT WOULD BE DIVISIVE ELEMENT OR HARM U.S.-ZAMBIAN BILATERAL RELATIONS. AFTER SIX WEEKS STUDY OF COMPANY BRIEF, GOLDBERG ACCEPTED

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AS ARBITRATOR AND WOOD VERY PLEASED AS HE FEELS GOLDBERG'S

INTERNATIONAL STATURE AND PRESTIGE LEND ADDED STRENGTH TO COMPANY'S CLAIM.

3. WOOD EXPECTS ICC FORMAL NOTIFICATION OF ARBITRATION TO REACH ZAMBIANS BY SEPTEMBER 16 AND HE IS ANXIOUS FOR THEIR

REACTION. FOREGOING IS FYI IN ANY DISCUSSIONS POST MAY HAVE WITH HOST GOVERNMENT.

4. MEANWHILE WOOD ADVISED BY HIS LUSAKA REPRESENTATIVE THAT GRZ HAS JUST BACKED DOWN FROM ITS ORIGINAL INSISTENCE THAT PURCHASE OF 62 TRUCKS IN ZAMBIA BE FINANCED FROM DOLS 1.6 MILLION DOWN PAYMENT ON ORDER OF GM TRUCKS FROM U.S.. WHICH NEVER DELIVERED. GRZ HAS PROPOSED RE-OPENING OF NEGOTIATIONS WHICH BROKE OFF NEARLY TWO MONTHS AGO. WOOD INSISTING NEXT MEETING BE HELD IN LONDON AND THAT ZAMBIANS COME WITH FULL DELEGATION AND AGREED AGENDA PREPARED FOR INTENSIVE TWO-WEEKS NEGOTIATION LEADING TOWARD AGREEMENT. WOOD BELIEVES REALITY OF ARBITRATION CLOSE AT HAND WILL FORCE SOME MUTUALLY ACCEPTABLE SOLUTION.

5. MEANWHILE AID GENERAL COUNSEL'S OFFICE ENGAGED IN CAREFUL FORMULATION OF OPINION REGARDING POSSIBLE USE OF DOLS 5 MILLION PROGRAM LOAN TO COVER THAT PART OF 270 REMAINING GM TRUCKS AND 70 FREUHAUF TRAILERS WHICH ZAMBIANS MAY WISH PURCHASE. NOT RPT NOT CLEAR FROM REFTEL WHETHER MUTTENDANGO OPINION ON LACK OF INTEREST IN LOAN TO COVER TRUCK PURCHASE REPRESENTS DEFINITIVE GRZ POSITION OR WHETHER PRESIDENTIAL REVIEW OF CASE AFTER DISCUSSION WITH FONMIN MWAANGA CASTS DIFFERENT LIGHT ON CASE. WOULD BE HELPFUL FOR AID'S PURPOSES IF EMBASSY COULD OBTAIN FROM MUTTENDANGO COMPLETE LISTING WITH VALUES OF IMPORTS AND SERVICES GRZ CONTEMPLATES COVERING IN FULL DRAW DOWN OF LOAN, EXCLUSIVE OF TRUCKS, AS MENTIONED BY MUTTENDANGO, IF THIS IS INDEED WAY GRZ INTENDS GO ON LOAN, NOTWITHSTANDING AID CONSIDERATION FOR OTHER PURPOSES. AID HAS STILL NOT YET CLEARED DOCUMENTATION ON DORON SIMULATOR PENDING CLARIFICATION TRUCK PURCHASE PROPOSAL AND WHILE TAW ARBITRATION CLAIM ENTERING DELICATE PHASE. KISSINGER

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